

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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BR RESTAURANT CORP. d/b/a BRUNO'S
RESTAURANTE ITALIANO,

Plaintiff,

- against -

NATIONWIDE MUTUAL INSURANCE
COMPANY,

Defendant.
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Civil Action No.: 2:20-cv-2756

(Removed from the Supreme Court
of the State of New York, County
of Nassau, Index No.
604487/2020)

**NOTICE OF
REMOVAL**

**TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK:**

PLEASE TAKE NOTICE that under 28 U.S.C. §§ 1332(a), 1441, and 1446, Defendant, NATIONWIDE MUTUAL INSURANCE COMPANY ("Nationwide") by its attorneys, GOLDBERG SEGALLA LLP, remove this action from the Supreme Court of the State of New York, County of Nassau. In support of this Notice, Nationwide states as follows:

1. On or about May 25, 2020, Plaintiff BR RESTAURANT CORP. d/b/a BRUNO'S RESTAURANTE ITALIANO commenced the above-captioned civil action by filing a Summons and Complaint. Thereafter, on or about May 27, 2020, Plaintiff filed an Amended Summons and Amended Complaint and completed service on Nationwide on June 2, 2020. Said action is now pending in the Supreme Court of the State of New York, County of Nassau. A trial has not yet been had therein. A copy of the Amended Summons and Amended Complaint is annexed hereto as **Exhibit "A."**

2. The Plaintiff seeks monetary damages for an alleged breach of contract arising out of the Plaintiff's claim for insurance coverage for business interruption arising out of the

mandatory shutdown of its restaurant as a result of the threat of the novel coronavirus, COVID-19. See Exhibit A.

3. Pursuant to 28 U.S.C. §1441(a), “[e]xcept as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.”

4. This action involves a controversy between citizens of different states in that: (a) Plaintiff is a citizen of the State of New York; and (b) Nationwide is now and was at the time the action was commenced an Ohio corporation with its principal place of business in Ohio.

5. This Court has original jurisdiction over this civil action under 28 U.S.C. § 1332 because the amount in controversy exceeds the sum or value of \$75,000 and there is complete diversity between Nationwide and Plaintiff.

6. Specifically, the Plaintiff claims that it has been damaged in the amount of \$360,000. See Exhibit A at ¶21.

7. This Notice of Removal is being filed within thirty (30) days of receipt of Plaintiff’s written allegation that its alleged damages exceed \$75,000. See Exhibit A at ¶21.

8. The Supreme Court of the State of New York, County of Nassau is located within the geographic jurisdiction of the District Court for the Eastern District of New York. Accordingly, venue in this Court is proper under 28 U.S.C. § 1441(a).

9. Upon receiving a file-marked copy of this Notice of Removal, a file-marked copy of this Notice of Removal and the accompanying filings will be served upon counsel for Plaintiff

and filed with the Clerk of the Supreme Court of the State of New York, Nassau County, as required by 28 U.S.C. § 1446(d).

10. This Notice of Removal is timely filed under 28 U.S.C. § 1446(b) as Nationwide was served on June 2, 2020, and Nationwide is filing this Notice of Removal within 30 days of service.

11. Attached to this Notice and by reference made a part hereof are true and correct copies of all process and pleadings filed herein.

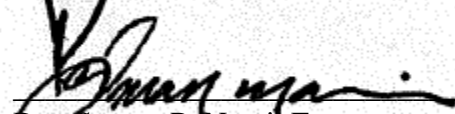
12. By filing this Notice of Removal, Nationwide does not waive any defense which may be available to it.

WHEREFORE, Nationwide prays that the above-captioned action now pending in the Supreme Court in the State of New York, County of Nassau, be removed therefrom to this Honorable Court.

Dated: Garden City, New York
June 22, 2020

Respectfully submitted,

GOLDBERG SEGALLA LLP



By: Steven P. Nassi, Esq.

Attorneys for Defendant Nationwide Mutual Insurance Company

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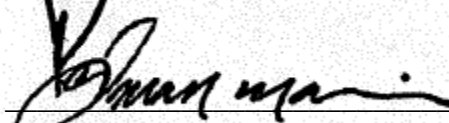
Defendant.

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CERTIFICATE OF SERVICE

I, Steven P. Nassi, do hereby certify that on June 22, 2020, the foregoing Notice of Removal to Federal Court with the Clerk of the Eastern District using its CM/ECF system was filed electronically and served in accordance with the applicable rules of Civil Procedure and of the court.

GOLDBERG SEGALLA LLP



By. Steven P. Nassi, Esq.